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JUN 20 2019

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA

**SUPREME COURT OF ARIZONA
FIDUCIARY BOARD**

**IN THE MATTER OF FIDUCIARY
LICENSE:**

YVONNE STALLINGS
License Number 20829

No. FID-NFC-18-0037

**NOTICE OF FORMAL
STATEMENT of
CHARGES and RIGHT to
HEARING**

On April 3, 2019 pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(5)(a)(3), Probable Cause Evaluator, Mike Baumstark, entered a finding probable cause exists as to Allegations 1, 2, 3, 4, 5, 6, and 7 in complaint number 18-0037. The particular sections of laws, court rules, ACJA, and orders relevant to the alleged acts of misconduct are ACJA §§ 7-201(F)(1), (H)(6)(a), (h) and (k)(6), (7) and (8), 7-202(F)(1), 7-202(J)(1)(a) and (c)(1) and (2), 7-202(J)(2), (3)(e), (5)(c), (d) and (k) and (6)(b), (c), (d) and (h), Arizona Rules of Probate Procedure, Rule 6, Rule 10(C)(1)(c) and (2)(a) and (b), Rule 30(A)(1), (2) and (3), Rule 30(C)(1), (2) and (3), Rule 30(D), Rule 30.1(A), Rule 30.3 and Rule 31 and A.R.S. §§ 14-3706, 14-5312, 14-5315, 14-5418, 14-5602 and 14-5605 as detailed in the attached Investigation Summary, Probable Cause Analysis and Determination Report and Order of the Board (Exhibit A) and incorporated herein.

On May 9, 2019, the Fiduciary Board ("Board") accepted the finding of the Probable Cause Evaluator and entered a finding grounds for formal disciplinary action exists as to Allegations 1, 2, 3, 4, 5, 6, and 7 pursuant to ACJA § 7-201(H)(6)(a) and voted revoke the license of Yvonne Stallings ("Stallings").

JURISDICTION

Pursuant to ACJA § 7-201(H)(10), the Board serves this Notice of Formal Statement of Charges and provides notice to Stallings that he has a right to request a hearing on the proposed

1 disciplinary action against license number 20829. The Board has jurisdiction over this matter
2 as Stallings obtained standard licensure as a fiduciary effective May 11, 2017 and has been
3 renewed without interruption and remains active through the current licensure period.

4 The complaint underlying this action was received during the period of Stallings' active
5 licensure and Stallings was provided an opportunity to respond to the complaint and participate
6 in the investigation of the complaint. The Board holds the authority to proceed with this action
7 pursuant to ACJA § 7-201(H).

8 **ANSWER OF LICENSE HOLDER**

9 Pursuant to ACJA § 7-201(H)(11), Stallings shall file an Answer to this Notice of
10 Formal Statement of Charges within fifteen (15) days of receipt of this Notice. The Answer
11 shall comply with Rule 8 of the Arizona Rules of Civil Procedure. Any defenses not raised in
12 the Answer are waived. If Stallings fails to file an Answer within the time provided, she is in
13 default and the factual allegation in the formal charges are deemed admitted and the Board may
14 determine the matter against Stallings. Stallings' Answer shall be filed with the Arizona
15 Supreme Court Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 102,
16 Phoenix, Arizona 85007.
17

18 **NOTICE OF RIGHT TO HEARING**

19 Pursuant to ACJA § 7-201(H)(12), Stallings may request a hearing within fifteen (15)
20 days of receipt of the Notice of Formal Charges and Right to Hearing. The Request for
21 Hearing must comply with ACJA § 7-201(H)(12), and shall be filed with the Arizona Supreme
22 Court Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 102, Phoenix,
23 Arizona 85007. If Stallings does not timely file a Request for Hearing, she will not have a
24 right to a hearing.
25

BACKGROUND FACTS

1. On July 5, 2018, the Director of the Administrative Office of the Courts initiated a complaint involving Stallings.

2. On July 18, 2018, the Certification and Licensing Division ("Division") sent Stallings a copy of the complaint and notice of the ACJA § 7-201(H)(3)(c) requirement she submit a written response to the complaint within thirty (30) days. Division records confirm delivery of the mailing on July 23, 2018..

3. On September 20, 2018, following a request for extension of time to respond, Stallings provided a written response to the complaint as required by ACJA § 7-201(H)(3)(c).

FACTUAL ALLEGATIONS OF MISCONDUCT

The Board, having knowledge sufficient to form a belief as to the truth of this information, hereby alleges and finds as follows:

1. Following multiple deficiencies documented by the Division during a formal Audit in February 2018, a Director Initiated Complaint was filed with the Division on July 5, 2018.

2. In February 2018, the Division conducted a Compliance Audit on the Apache County Public Fiduciary's office ("ACPF") and Designated Principal, Stallings. The Audit found fiduciary non-compliance with practice standards that violated provisions of the Arizona Code of Judicial Administration.

3. As detailed in Exhibit A, the subsequent investigation reviewed Stalling's administration of her fiduciary obligations from the time she was licensed as a fiduciary on May 11, 2017, forward and addressed the allegations that Stallings:

- Failed to file estate budgets;
- Failed to timely file inventories and not providing valuations for property;

1 2. Stallings violated ACJA §§ 7-201(F)(1), (H)(6)(a), (h) and (k)(6), (7) and (8), 7-
2 202(F)(1), and 7-202(J)(1)(a) and (c)(2), 7-202(J)(5)(k) and (6)(h), Arizona Rules of Probate
3 Procedure Rule 30(A)(1), (2) and (3), Rule 31, A.R.S. §§ 14-3706, 14-5418 and 14-5605, by
4 failing to obtain and file consumer credit reports; failing to file and/or failing to timely file
5 inventories and/or failing to file complete and accurate inventories and/or failing to file
6 amended inventories with the Court.

7 3. Stallings violated ACJA §§ 7-201(F)(1), (H)(6)(a), (h) and (k)(6), (7) and (8), 7-
8 202(F)(1), and 7-202(J)(1)(a) and (c)(2), Arizona Rules of Probate Procedure Rule 10(C)(2)(b)
9 and Rule 30(D), and A.R.S. § 14-5605 by failing to file and/or failing to timely file annual
10 conservator accounts with the Court.

11 4. Stallings violated ACJA §§ 7-201(F)(1), (H)(6)(a), (h) and (k)(6), (7) and (8), 7-
12 202(F)(1), and 7-202(J)(1)(a), 7-202(J)(2), (5)(c) and (d) and (6)(b), (c) and (d) and A.R.S. §§
13 14-5602 and 14-5605 by failing to marshal and secure estate assets and/or comingling estate
14 assets.

15 5. Stallings violated ACJA §§ 7-201(F)(1), (H)(6)(a), (h) and (k)(6), (7) and (8), 7-
16 202(F)(1), and 7-202(J)(1)(a) and (c)(2), A.R.S. §§ 14-5312, 14-5315 and Arizona Rules of
17 Probate Procedure Rule 30(C)(1), (2) and (3) by failing to file and/or failing to timely file
18 Annual Reports of Guardian and/or filing incomplete Annual Reports of Guardian with the
19 Court.

20 6. Stallings violated ACJA §§ 7-201(F)(1), (H)(6)(a), (h) and (k)(6), (7) and (8), 7-
21 202(F)(1), and 7-202(J)(1)(a) and (c)(1) and (2), Arizona Rules of Probate Procedure Rule 6
22 and Rule 10(C)(1)(c) and (2)(a) by failing to file Probate Information Forms and failure to file
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1 and/or timely file notices of death and failure to file and/or timely file changes of address with
2 the Court.

3 7. Stallings violated ACJA §§ 7-201(F)(1), (H)(6)(a), (h) and (k)(6), (7) and (8), 7-
4 202(F)(1), and 7-202(J)(3)(e) by failing to maintain complete client records.

5 **PROPOSED DISCIPLINARY SANCTIONS**

6 The Board, based on the foregoing factual allegations of misconduct, is seeking to:

- 7 a. Revoke Yvonne Stallings license pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
8
9 b. Issue a cease and desist order enjoining Yvonne Stallings from representing
10 herself to the public as a licensed fiduciary pursuant to ACJA § 7-
11 201(H)(24)(a)(6)(g);

12 DATED this 17 day of June, 2019.

13 
14 Deborah Primock, Chair
15 Fiduciary Board
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1 Original of the foregoing filed this 10 day of June, 2019 with:

2 The Honorable William O'Neil
3 Presiding Disciplinary Judge
4 1501 West Washington, Suite 102
Phoenix, Arizona 85007

5 A copy of the foregoing to be served to:

6 Yvonne Stallings
7 P.O. Box 693
St. Johns, Arizona 85936

8 A copy of the foregoing hand delivered and/or mailed this 10 day of June, 2019 to:

9 David Withey, Legal Counsel
10 Administrative Office of the Court
11 1501 West Washington
Phoenix, Arizona 85007

12 Eryn McCarthy
13 Agency Counsel Section
14 Office of the Attorney General
15 15 South 15th Avenue
Phoenix, Arizona 85007

16 By:



17 Michelle Martinez, Manager
18 Certification and Licensing Division
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EXHIBIT A

**Arizona Supreme Court
Administrative Office of the Courts**



INVESTIGATION SUMMARY

Complaint No. 18-0037

**Yvonne Stallings
Certificate/License No. 20829**

March 27, 2019

Certification and Licensing Division

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY and PROBABLE CAUSE ANALYSIS
and DETERMINATION REPORT**

<i>CERTIFICATE HOLDER/LICENSEE INFORMATION</i>	Certificate Holder:	Yvonne Stallings
	Certification Number:	20829
	Type of Certificate/License:	Individual
<i>COMPLAINANT</i>	Name:	Director Initiated Complaint
<i>INVESTIGATION INFORMATION</i>	Complaint Number:	18-0037
	Investigator:	Pasquale Fontana
Complaint Received:		
		July 5, 2018
Complaint Forwarded to the Certificate Holder:		July 18, 2018
Certificate Holder/Licensee Received Complaint:		July 23, 2018
Response From Certificate Holder:		September 20, 2018
Period of Active Certification/Licensure:		May 11, 2017 to Present
Status of Certification/License:		Active
Availability of Certificate Holder/Licensee:		Available
Availability of Complainant:		N/A
Report Date:		March 27, 2019

ALLEGATIONS:

1. Yvonne Stallings did not file estate budgets with the Court.
2. Yvonne Stallings did not obtain consumer credit reports, did not timely file inventories, and/or did not file complete and accurate inventories with the Court.
3. Yvonne Stallings did not timely file or did not file annual conservator accounts with the Court.
4. Yvonne Stallings did not marshal and secure estate assets and/or comingled estate assets.
5. Yvonne Stallings did not file Annual Report of Guardian with the Court and/or did not timely file Annual Report of Guardian and/or filed incomplete Annual Report of Guardian.
6. Yvonne Stallings did not file a Probate Information Form and did not file and/or timely file notices of death and/or did not file or timely file a change of address with the Court.
7. Yvonne Stallings did not maintain complete client records.

ADDITIONAL ALLEGATIONS:

None.

List of sources for obtaining information: (Investigative, records, outside resources, etc.):

- Compliance Audit conducted by the Division and corresponding Audit Report;
- Written responses and documentation submitted by license holder, Yvonne “Bonnie” Stallings (“Stallings”), Designated Principal, Apache County Public Fiduciary’s Office (“ACPF”);
- Response to Audit Report by Stallings, dated June 21, 2018
- Review of applicable Certification and Licensing Division (“Division”) records;
- Review of applicable sections of Arizona Revised Statutes (“A.R.S.”), Arizona Codes of Judicial Administration (“ACJA”) §§ 7-201, 7-202, 3-303. and Arizona Supreme Court Rules;
- Interview with Stallings;
- Interview with Patricia Hall.

PERSONS INTERVIEWED:

1. Yvonne Stallings
2. Patricia Hall

SUMMARY OF INVESTIGATION:

By way of background, pursuant to A.R.S. §14-5651 and Arizona Supreme Court Administrative Order 2003-31, Division auditors conducted a Compliance Audit (“Audit”) on Stallings and the ACPF’s office. The objective of the Audit was to determine compliance with applicable A.R.S.; ACJA §§7-201, 7-202, 3-302, and 3-303; and Arizona Rules of Probate Procedure (“ARPP”).

The Audit areas of review included, but was not limited to:

- Marshaling of assets including: identifying, securing, titling, valuing, storing, selling and disbursing;
- Timely and accurate filing of documents including: pleadings, accounts, and reports with the court; visits with wards;
- Compliance with ACJA §3-303, Arizona Statewide Fee Guidelines (“Fee Guidelines”).

The Audit consisted of, but was not limited to the following:

- Review of pertinent Arizona Superior Court probate records for 18 (eighteen) probate cases for the period from January 1, 2016 through January 31, 2018;
- Review of records in the possession and control of Stallings and the ACPF for the period from January 1, 2016 through January 31, 2018, including but not limited to:

- Pleadings
 - Inventories
 - Accountings
 - Annual Report of Guardian
 - Demographic and personal information
 - Case notes
- Onsite visits to two (2) storage units/spaces used to store estate property;
 - Onsite visit to one (1) railcar trailer containing estate property;
 - Interview with Stallings;
 - Interview with Hall.

The Audit examined fiduciary activities for the period from January 1, 2016 through January 31, 2018. The Division notes that Stallings was licensed as a fiduciary on or about May 11, 2017. Prior to licensure, for several years, Stallings worked actively at ACPF, alongside Hall, who served as the sole licensed fiduciary and designated principal.

Division records showed that Stallings, on behalf of ACPF, submitted a Change of Designated Principal Form, notarized and dated February 12, 2018, indicating that she was the new Designated Principal for ACPF. Section II of the said Form (Resignation of Current Designated Principal), executed by Hall on February 12, 2018, identified her resignation date effective May 11, 2017.

The Division notes that Hall's application for renewal of her fiduciary license was denied by the Fiduciary Board on or about January 11, 2018.

Audit records indicate that throughout the Division's Audit, Stallings and Hall were accommodating and accessible to Division staff. Each expressed what seemed to be genuine interest in the well-being of their wards and both were aware of the personal needs and distinguishing circumstances of their wards. In addition, based on Stallings' and Hall's representations, they appeared to enjoy positive working relations with various community professionals. Division staff did not interview any community professionals during the Audit or during the investigation.

The Audit found fiduciary non-compliance with practice standards that rise to a level of violations of the AJCA. Particularly, deficiencies were found in areas including:

- Estate budgets
- Inventories and credit reports
- Accountings
- Marshaling of assets
- Co-mingling of assets
- Annual guardian reports
- Probate information sheets
- Notices of death and address changes
- Incomplete records

A copy of the Audit Report is attached as Exhibit A.

Based on the deficiencies documented in the Audit Report, a Director Initiated Complaint was filed.

This Summary of Factual Findings of Investigation reflects the facts and findings of the Audit Report. It is concerned with Stallings's administration of her fiduciary obligations from the time she was licensed on May 11, 2017, onward. For matters which occurred prior to Stallings' licensure (i.e. failure to file budgets), the investigation looked at what responsibilities she had regarding any appropriate and requisite follow up.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

1. Estate Budgets:

Audit Concerns:

- 1) Stallings did not prepare and/or file initial estate budgets and did not give notice to interested parties.*
- 2) Stallings did not file annual estate budgets with annual conservator's account and did not give notice to interested parties.*

During the Audit, Division staff reviewed relevant court files and records available in the files maintained by Stallings and ACPF.

Auditors were unable to locate records demonstrating that Stallings and/or ACPF filed initial estate budgets or subsequent annual estate budgets with the court. Division staff asked Stallings if she prepared estate budgets to which she replied that she meets with wards and protected persons regarding their respective monthly budgets if those wards/protected persons have capacity to understand the subject. Stallings said that, in some cases, she also meets with the care facility caseworker assigned to the ward to review the monthly budgets and Stallings uses a "whiteboard" to determine monthly income and expenses for the respective ward or protected person.

Questioned as to whether she prepares estate budgets that are filed with the court, Stallings stated, "No, we're not required to do that." Stallings said that the court has never instructed or ordered her or ACPF not file estate budgets. Stallings was asked if she prepares estate budgets even if those are not filed with the court. She described a process whereby Stallings and Hall document a ward's expenditures on a "white sheet" which Stallings said is used to track expenditures. She said that the "white sheet" is then compared to bank reconciliation reports prepared by the Apache County Finance Department ("Finance"). Stallings said that if she or Hall notice any discrepancy between the information that appears on the "white sheet" and the bank reconciliation reports, Stallings or Hall will alert Finance of any such inconsistencies.

Per the Arizona Rules of Probate Procedure (“ARPP”), Rule 30.3, fiduciaries are required to file initial estate budgets not later than the date the inventory is due (that is within 90 days of appointment) and thereafter with each conservator’s account at the end of the respective accounting years.

The following probate cases identify which calendar year(s) the initial estate budgets were due to be filed with the court and Division found no evidence that budgets were filed at any time prior to the date of the Audit Report:

1) GC2017-011

- Initial estate budget due in 2017;

2) GC2017-003

- Initial estate budget due in 2017;

3) GC2016-008

- Initial estate budget due in 2016;
- Annual estate budget due in 2017;

4) GC2016-031

- Initial estate budget due in 2016;
- Annual estate budget due in 2017;

5) GC2016-017

- Initial estate budget due in 2016;
- Annual estate budget due in 2017;

6) GC2015-004

- Initial estate budget due in 2015;
- Annual estate budgets due in 2016 and 2017;

7) GC2015-007

- Initial estate budget due in 2015;
- Annual estate budgets due in 2016 and 2017;

8) GC2015-015

- Initial estate budget due in 2015;
- Annual estate budgets due in 2016 and 2017;

9) GC2015-021

- Initial estate budget due in 2015;
- Annual estate budgets due in 2016 and 2017;

10) MH-108

- Initial estate budget due in 2015;
- Annual estate budgets due in 2016 and 2017;

11) GC2003-017

- Initial estate budget due in 2013;
- Annual estate budgets due in 2014, 2015, 2016, and 2017;

12) GC2004-028

- Initial estate budget due in 2013;
- Annual estate budgets due in 2014 and 2015;

13) GC2010-032

- Initial estate budget due in 2013;
- Annual estate budgets due in 2014, 2015, 2016, and 2017;

14) GC2005-018

- Initial estate budget due in 2013;
- Annual estate budgets due in 2014, 2015, 2016, and 2017;

The Division notes that the above-referenced probate cause numbers, identified in the Audit, document the year(s) when initial estate budgets and subsequent annual estate budgets were to be filed with the court. Some of those budgets predated Stallings's licensure as a fiduciary on May 11, 2017. After Stallings was a licensed fiduciary with ACPF's office, she was responsible for ensuring that initial and annual estate budgets were properly filed for 2017 onward. At the time of the Audit in March 2018, those estate budgets referenced remained outstanding.

2. Inventories

Audit Concerns:

- 1) *Stallings did not file or did not timely file an inventory in some cases.*
- 2) *Stallings did not provide a valuation of the property with inventories.*
- 3) *Stallings did not obtain and file a consumer credit report with inventories.*

Stallings told Divisions staff that she does not prepare inventories in conservatorship cases because protected persons do not have property and commonly have only “personal belongings.” She said that in conservatorship cases, she does not go into client’s homes to inventory property. Stallings added that her clients do not own their homes, and most are housed in long-term care or low-income apartments. Asked how she determines what people have for personal belongings and property if she does not establish an inventory, Stallings said she generally goes by what the ward or protected person tells her that he or she has or by what others in the community tell Stallings. She said, whenever possible, her office completes a final inventory.

Records demonstrated that ACPF files did contain handwritten notes listing various items of personal property in some of the probate cases reviewed. Those handwritten notes were also filed with the court at various stages of the administration of the case. In those cases where handwritten inventories existed, a corresponding valuation of the personal property was not included.

The following cases demonstrated that an inventory was filed with the court at the time the fiduciary’s office file the Statement of Administration, but no valuation was provided to the items of property listed.

- 1) PB2017-009
- 2) PB2017-045

The Division notes that in PB2017-045, the fiduciary indicated in the Statement to Administer Estate that the decedent’s property was valued at less than \$20,000.00. Shortly afterward, Stallings said she became aware of additional financial accounts (mutual funds and cash) which exceeded \$84,000.00. Despite her knowledge of the significant increase in decedent’s assets, Stallings said that she has not “applied for letters for the estate,” as is required by A.R.S. §14-5605(B).

Stallings did not provide an amended inventory with the court.

In cause number GC2003-017, a notarized document titled “Annual Account of Conservator” was filed on July 27, 2017, stating that the fiduciary’s office has prepared and filed, with the court, an inventory and appraisal of the protected person’s estate and that the fiduciary’s office has sent a copy to those people entitled to receive a copy. When Division staff asked to review a copy of the said inventory, Hall stated that an inventory was not done because the foster mother was unable to provide a list of the ward’s property.

The following cause numbers had no record of inventories filed with the court:

- 1) GC2017-011
- 2) GC2016-008
- 3) GC2016-017
- 4) GC2016-018

Regarding GC2017-011, the protected person owned real property. Stallings said that due to the “hazardous” conditions of the residence which required her to wear a “hazmat” suit to enter, she did not inventory the property. She said that the house was under a trustee sale held in May 2018.

In addition, Auditors were unable to find any record of consumer credit reports on file for any of the probate cases for which ACPF was appointed and serving as conservator. When asked about this Stallings stated that her office does not obtain credit reports.

Division Auditors did not find records demonstrating that the fiduciary and her office filed motions with the court requesting extension of time to file inventories.

3. Accountings

Audit Concerns:

- 1) *Stallings did not timely file or did not file annual conservator accounts for some cases.*
- 2) *Stallings did not file motions with the court to extend the time to file late conservator accounts.*
- 3) *Some annual conservator accounts were filed for two-year periods.*
- 4) *Stallings did not file final conservator accounts in some cases.*

During the Audit, Division staff noted that, for some probate cases, the fiduciary’s office did not file annual conservator accounts. In other probate cases, the annual conservator account was not filed timely and the accounting covered a two-year period rather than the one-year accounting period, as required. In two probate cases, final conservator accounts were not filed.

Stallings told Division staff that she is behind in preparing and filing conservator accountings with the court. Asked how she tracks due dates for the conservator accountings Stallings said that when the Clerk of the Court emails a copy of the minute entry, Stallings then inputs the respective due dates on her Outlook calendar.

Stallings told Division staff that she does not file motions for extension of time to file the accountings and said that she prepares and files the accountings when she and her office has time.

Division Auditors reviewed each of the following cases with Stallings and Hall and requested verification as to which estates had outstanding accountings and for which of those cases the accountings were filed with the court:

1) GC2016-008

- Annual conservator account is due for 2017;

2) GC2016-031

- Annual conservator account is due for 2017;

3) GC2016-016

- Annual conservator account is due for 2017;

4) GC2015-003

- Annual conservator accounts are due for 2016 and 2017;

5) GC2015-021

- Annual conservator accounts are due for 2016 and 2017;

6) GC2015-015

- Annual conservator accounts are due for 2016 and 2017;
- Final conservator account has not been filed;

7) GC2015-007

- Annual conservator accounts are due for 2016 and 2017.

8) MH-108

- Annual conservator accounts are due for 2015, 2016, and 2017;
- ACPF was appointed conservator on October 7, 2014.

9) GC2004-028

Division Auditors were made aware of this case while at the fiduciary's office. ACPF was appointed guardian and conservator on or about July 25, 2012. Division Auditors asked to review a copy of the last annual accounting prepared for this matter. Hall stated that the last accounting filed was in 2014 but she was unable to produce any copy of the accounting. Auditors determined that annual accounts were not filed for 2014 and 2015.

Further, records showed that notice was given to the court that the protected person passed away on April 1, 2016. Although ARPP Rule 10(C)(2)(b) requires that a conservator "shall file an accounting of the protected person's estate within 90 days of the date of the protected person's death," as of the time of the Audit in March 2018, a final account had not been filed with the court reflecting 2016 through to the date when the court discharges the conservator.

10) GC2016-018

The ACPF was appointed as guardian and conservator on July 19, 2016. The protected person passed away on December 17, 2016.

Division staff noted that no final account had been filed in this matter at the time of the Audit in 2018.

When asked about the final accounting, Stallings said that because the fiduciary's office was only appointed for six (6) months before the protected person passed away, the fiduciary's office did not open a checking account for that individual. Stallings said that the woman received \$400.00 per month in Social Security benefits and the fiduciary's office paid the woman's bills using her electronic benefits transfer (EBT) card and used EBT to get money orders to pay her low-income housing rent.

Stallings told Division Auditors that she and Hall are working on getting conservator accounts prepared and filed with the court.

Division Auditors did not find any records demonstrating that the fiduciary's office filed a motion with the court requesting extension of time to file accountings.

4. Marshaling and Securing Assets / Co-mingling Assets

Audit Concerns:

- 1) *Stallings did not take reasonable steps to marshal and secure the property and income of the protected person or decedent's property.*
- 2) *Stallings co-mingled the property of protected persons and decedent's estates.*
- 3) *Stallings did not apply for letters of administration for an estate when the value of the estate exceeded \$20,00.00.*

1) GC2016-007

In this matter, Stallings told Division auditors that the protected person owns a shed and that property contained in the shed is not of much value except to the protected person. Auditors noted that an inventory of the protected person's property was not prepared or filed by the fiduciary's office.

Auditors observed that in notes attached to the Court Appointed Investigator Report, filed with the court, the court investigator wrote that when the individual was interviewed by the court investigator on April 12, 2016, "She has a handgun, shotgun and a rifle." Auditors did not see any record of the guns referenced in the court investigator's report or any indication as to the current location of the said guns.

Division staff asked Stallings about the referenced guns and lack of fiduciary records documenting the guns to which she said she would have to check her files and case notes and get back to the Division. Stallings later called and told Division staff that she did not know anything about the guns and could not find any notes or record about the guns.

Stallings stated that if the fiduciary's office finds guns those guns would be relinquished to the Sheriff's Department and stored in the "evidence room." She commented that the Sheriff's office would either keep the guns or sell the guns and, if sold, the proceeds from the sale of the guns would be deposited into the Sheriff's Department's general fund.

2) GC2017-011

The fiduciary's office was contacted by Adult Protective Services ("APS") on May 17, 2017, regarding deplorable living conditions of the protected person. ACPF filed for temporary guardianship and conservatorship on May 25, 2017 and was ultimately appointed permanent guardian and conservator on July 6, 2017.

Stallings told Division staff that the protected person has a home that is scheduled for a trustee sale in May 2018. She said the property had value prior to the fiduciary's appointment but that due to the hazardous living conditions of the home, Stallings would have to enter the residence wearing a "hazmat suit." Stallings stated that the property carried a \$140,000 mortgage but Division staff did not see any mortgage documents in the fiduciary's files.

Auditors confirmed with the Apache County Assessor's ("County Assessor") office that a notice of trustee sale was recorded on January 24, 2018. The County Assessor's Office indicated that the protected person purchased the property in 2008 for \$118,800 and that the current Full Cash Value of the home, as assessed by the County Assessor was \$73,041.00. Division staff noted that the website Auction.com lists the property as a foreclosure with an estimate debt of \$103,393.00.

Other than Stallings' assessment of and opinion that the residence was in deplorable and hazardous condition, Division Auditors were unable to determine, from the fiduciary's files, any equity the protected person may have in the property and whether Stallings and ACPF tried to determine the value of the property.

In addition, Stallings told Division Auditors about an incident whereby money belonging to the protected person was stolen. Stallings said she obtained \$100.00 cash of the protected person's money to use for birthday money for the protected person. Stallings stated that while the cash was in the fiduciary's office the \$100.00 went "missing." Stallings opined that the money was taken/stolen by an employee of the fiduciary's office. This employee is no longer with the fiduciary's office. Stallings said she called the Sheriff's Office to file a report on the incident but said that the Sheriff's Office would not take the report apparently because Stallings did not have proof that money was allegedly taken by the employee. When asked if the missing \$100.00 was replaced and the protected person and

estate made whole, Stallings said that the money was not replaced by the fiduciary's office or by anyone else.

3) GC2015-015

In this matter, the ACPF was appointed as guardian and conservator on September 29, 2015. The protected person died on September 26, 2017, and on October 10, 2017, the fiduciary's office filed a Notice of Death & Authorization to Administer Remainder of Estate (A.R.S. § 14-5605).

An initial inventory, filed with the court on September 28, 2015, identified five acres of land at Northfork Ranches and a Modular Home which ACPF indicated on the inventory was to be condemned due to filth. Numerous other items were on the inventory list including vehicles, motor homes, travel trailers, utility trailers, and a storage area at Linden Ministorage etc. On the inventory was a statement that, "Each utility trailer is packed of various items to be inventoried." Division auditors noted at least three trailers on the inventory list which were described as utility or storage trailers.

Division Auditors further noted that ACPF has, through county surplus property, various auction sales and receipts from sales of property beginning in January 2016 on the file. As of the date of the Audit Report, much of the decedent's property remains in the fiduciary's storage units and needs to be sold. Stallings does not have a complete list of property items that have been sold or of items remaining that need to be sold.

Stalling's practice is to wait until she is prepared to sell an item or items, create a list of those items, takes pictures of the items and then place the items on the surplus auction website. Stallings stated that the decedent has \$25,000.00 of debt and said she has contacted creditors and that some of the creditors wrote off the bill but said she still needs to sell the decedent's property to pay off remaining debt.

4) PB2017-0045

On July 6, 2017, ACPF filed a Statement of Administration per A.R.S. § 14-5605. On July 12, 2017, the court authorized ACPF to administer the estate pursuant to A.R.S. § 14-5605 for estates under \$20,000 (twenty thousand). Division staff noted that an initial inventory was filed with the court on July 6, 2017. The inventory identifies approximately 600 (six hundred) compact discs ("CD"), three (3) vehicles, a trailer house described as unlivable, and a lot in River Meadow Ranch. The inventory also lists three (3) guns and indicates that these guns were held at the Sheriff's Office.

Questioned about the guns held by the Sheriff's Office, Stallings stated that the guns are taken by the Sheriff's Office and stored by staff who handle evidence for the Sheriff's Office. Stallings said that, eventually, she will sign some type of paperwork that relinquishes the guns to the Sheriff's Office. She commented that she does not and cannot sell the guns at the county surplus auction and cited this as reason for relinquishing the guns to the Sheriff's Office. Stallings said that the Sheriff's Office will either keep the

guns or sell them and that if the guns are sold the Sheriff's Office will deposit the proceeds in its general fund.

Stallings stated that the decedent lived in a dilapidated trailer in the Petrified Forest and she showed Division staff pictures she took of the residence. She said she went into the trailer to look for documents and for items of value and importance. Stallings said she retrieved the decedent's mail, but she was unable to locate a will. Stallings said she had the decedent's mail forwarded to the fiduciary's office effective June 7, 2017.

ACPF file records showed that Stallings requested the US Post Office to forward the First Class/Priority and Express mail, newspapers, magazines, and packages to ACPF. After having the decedent's mail forwarded to ACPF, Stallings said she received financial statements and she learned that the decedent had bank accounts and stocks and/or mutual fund holdings.

Fiduciary records demonstrated that on July 24, 2017, Stallings emailed Josh Covey ("Covey") of Finance, stating [italics added]:

"I received a call from Ameriprise financial [sic] concerning the indigent burial of SG [initials inserted by Division]. She indicated that he has an ira [sic] of over 60,000 [sic] and an individual account of \$7500.00 [sic]. Sounds like I will have to probate this matter. We also found some tools and other stuff at the property along with the property. I have to contact his banks (2) [sic] to see what he has in them. I did the Authorization to Administer Estate for less than 20,000 [sic] but we are way over now. Can I prepare probate to make me the personal rep [sic]?"

Records showed that on July 24, 2017, Eileen McArthur ("McArthur") of Ameriprise Financial Services, Inc. ("Ameriprise") emailed Stallings documenting that the two of them had spoken on this date and that McArthur requested, from Stallings, the following information:

- Estate tax identification number
- Certified court papers (dated within 60 days) showing Stallings as executor/personal representative
- Certified death certificate
- Profile information on whoever is appointed executor/personal representative.

Records showed that on August 2, 2017, Stallings emailed McArthur inquiring about any information regarding the decedent's mother to which McArthur, on August 3, 2017, responded, in pertinent part, "I am so sorry, but we have no information on beneficiaries at all."

Available fiduciary records demonstrated that decedent had the following financial assets:

Ameriprise Financial

Account ending ****133 (cash/equities)

- October 1, 2017 - December 31, 2017
- Total: \$78, 223.38

Chase Bank

Account ending ****8481

- February 1, 2018 - February 28, 2018
- Total: \$1,597.17

Washington Federal

Account ending ****4725

- January 31, 2018
- Total: \$2,796.77

Wells Fargo Bank

Account ending ****9968

- October 1, 2017 - December 31, 2017
- Total: \$1,551.44

Total assets in financial accounts: \$84,168.76

During the Audit, Stallings was asked whether she has marshaled and secured the above-referenced financial accounts. She said that she has not yet “notified” the financial institutions adding that she has the “paperwork” and she intends to notify the institutions as soon as she has time. Stallings said that the financial institutions require her to provide copies of the death certificate and court order demonstrating that she has authority to administer the estate. Once Stallings provides those documents she said she will be granted authority to access the accounts. Stallings said that she has spoken with representatives from the financial institutions including and apparently was told that no one has access to the accounts.

Stallings said that there is a death certificate and court authority “on file” but that she has yet to proceed with providing the required death certificate and court’s order to the various financial institutions so that she can secure and access the accounts.

Stallings also stated that she intends to “take title” of the decedent’s vehicle and two small motorcycles. She told Division staff that she plans to contact certain credit card companies

regarding decedent's credit card debts and that, so far, she has only notified the credit card companies of the card holder's death.

Some of the decedent's property was stored in ACPF's storage space, but that property was not listed in the initial inventory. Specifically, the storage space contained three small motorcycle that Stallings was preparing to sell at the county auction.

As previously noted in this Investigation Summary, on or about July 6, 2017, the fiduciary's office filed an initial inventory along with the Statement of Administration seeking appointment to administer the estate (under \$20,000.00), however, there was no record found that demonstrated Stallings filed an amended inventory after learning of the decedent's additional assets including the referenced accounts holding \$84,168.76.

5) PB2017-009

In this matter, the decedent passed away on or about March 3, 2016 and the fiduciary's office was made aware of the death in April 2016.

On February 2, 2017, almost a year after the decedent's passing, the fiduciary's office filed a Statement of Administration and the Authorization to Administer Estate was approved on February 17, 2017. In addition, the fiduciary's office filed an initial inventory on February 2, 2017. The inventory contained a list of various house-hold and personal items but did not list the small amount of money that Stallings had previously identified in an email dated April 15, 2016.

Division staff asked Stallings to explain the reason the estate was not administratively closed. She said that decedent's property has not been sold but said the property is in the county's surplus storage awaiting placement on the county surplus action website. The Division notes that the fiduciary's office has held decedent's property in storage since April 2016.

With respect to the storage of protected persons' and decedent's property Division staff directly observed two storage bays and a railcar trailer utilized by the fiduciary's office. Division staff found that the fiduciary's office co-mingled the protected persons and decedents' respective properties.

When asked about the practice regarding storage of estate property, Stallings described a process which included property being delivered to one of the county sheds. The property of a protected person or estate is marked and stored until Stallings finds time to prepare the property for sale at the county surplus auction. When Stallings decides to sell any given property, she said she identifies the property to be sold, takes a photograph of the said property, and uploads it to the county surplus auction website for sale.

Division staff asked Stallings how she determines the value of the property items, Stallings stated that, generally, she will do an internet search for the property but that there have

been some cases where she has been unable to identify the property and has consulted other employees to try to identify the property and assign a proper value.

Division Auditors noted that the main storage trailer held the property of various protected persons and estates. While the property was neatly stacked and stored throughout the trailer, the various visible pieces were not readily marked identifying to whom the property belonged. Some of the items were marked and identified but other items were not labeled and did not identify the rightful owner. Division staff randomly pointed to boxes and items and asked the fiduciary to identify which property belonged to whom and which estate. Hall seemed unable to distinguish which of the boxes containing personal items belonged to which ward or decedent, but Stallings could identify which items/boxes belonged to whom despite the lack of any markings and delineation of some of the property.

5. Annual Report of Guardian

Audit Concerns:

- 1) *Stallings and ACPF did not file annual guardian reports for some wards.*
- 2) *Stallings and ACPF filed some annual guardian reports covering a two-year period.*
- 3) *Stallings and ACPF filed incomplete annual guardian reports.*

Division Auditors observed that many of the guardianship files maintained by ACPF's office did not have copies of the required Annual Report of Guardian. Stallings was asked about the missing guardian reports. She acknowledged that she was behind in filing those reports with the court. She stated that she and Hall, who was serving as Stallings's assistant at the time of the Division's Audit, are currently working on getting "caught up" on completing guardian reports.

Division Auditors did not find documentation showing that Stallings and her office filed motions requesting extension of time to file the annual guardian reports. Despite not filing motions seeking extensions of time to file guardian reports, Stallings said that when a judge asks her what ACPF is going to do regarding past due guardian reports, she said she informally tells the judge that when the fiduciary's office gets an additional staff person, the office will get caught up on the outstanding guardian's reports.

Division Auditors found the following delinquent Annual Report of Guardian due for 2017:

- 1) GC2016-008
- 2) GC2016-031
- 3) GC2016-017

GC2016-007

Division auditors were made aware of this case after the onsite visit. Auditors did not review the court records nor reviewed the case filed maintained by the fiduciary's office.

However, Stallings told Division staff that the annual guardian's reports were outstanding for 2016 and 2017.

MH-108

Division auditors did not review the court file in this matter. Stallings confirmed that the Annual Report of Guardian was due for 2015, 2016 and 2017.

The Division noted that the following probate cases had Annual Report of Guardian due to be filed with the court for years 2016 and 2017 but the fiduciary's office did not file the reports:

- 1) GC2015-003
- 2) GC2015-004
- 3) GC2015-015 - the ward died on or about September 26, 2017
- 4) GC2015-007
- 5) GC2015-021

GC2014-004

Auditors were not made aware of this case while onsite conducting the Audit. Therefore, Auditors were unable to review the court file or ACPF's file. However, according to Stallings, since ACPF was appointed as Co-Guardian of the ward (the ward's father is also Co-Guardian), Stallings said that she has not prepared or filed an Annual Report of Guardian adding that this is another case in which she needs to get caught up.

GC2010-032

Although the Annual Report of Guardian was filed on September 14, 2017, the report was incomplete because the section that identifies the number of times the guardian visited the ward in the last 12 (twelve) months and the date when the guardian last saw the ward were left blank.

6. Probate Information Sheet

Notice of Address Change or Location of Ward or Protected Person

Audit Concerns:

- 1) *Stallings did not file a Probate Information Form for any probate case.*
- 2) *Stallings did not file notice of permanent location or change of address for some wards and protected persons.*

A review of available court records and files maintained by Stallings and her office showed that the fiduciary's office did not file a Probate Information Form in probate cases reviewed.

In addition, whenever a ward is moved to a different location, the fiduciary is required to file a Notice of Change of Address with the court.

Within the two-year scope period of the Audit, no record of any such notice was found for probate cases reviewed.

7. Notice of Death of Ward

Audit Concerns:

- 1) Stallings did not timely file and/or did not file notice of death of a ward with the Court.*

Division auditors reviewed court records and files maintained by the fiduciary's office. Auditors found that in one (1) case the fiduciary's office did not notify the court of the ward's death and in three (3) cases did not timely notify the court of a ward's death.

1) GC2016-018

The ward passed away on December 17, 2017, but as of March 5, 2018, the fiduciary's office had yet to file a notice of death with the court. Stallings told Division staff that she thought she filed a Notice of Death, but she was unable to produce any copy of such notice. She stated that she would file a Notice of Death with the court as soon as possible.

2) GC2013-028

The ward died on or about June 22, 2016. The Notice of Death was filed with the court on or about July 10, 2017.

8. Incomplete Records

Audit Concerns:

- 1) Stallings did not maintain complete records and documentation to support decisions made by the fiduciary in the administration of probate cases.*

Division Auditors reviewed files maintained by the fiduciary's office and noted that multiple files did not have a complete record of notes to support the decisions made by the fiduciary. Although Stallings had previously provided Division staff a copy of her office's written procedures for documenting and maintaining detailed notes of decisions made on behalf of wards and protected persons, Auditors found that multiple files contained notes for only sporadic periods of time, notes that were not current, and some of the files did not contain notes.

Stallings told Division staff that she takes case notes on a pad of paper and when time allows, she types her notes into a Word document, prints off the case notes and places them

on the respective files. Stallings also said that, time permitting, she prints copies of emails documenting decisions made. She commented that if any of the case files were deficient of notes, it was because she either did not have the time to type up her notes or that she typed her notes but had not yet printed them out to insert into the respective client files, or that she had not yet printed the emails. Stallings stated that the office recently obtained computer software (Dragon) that she hoped would assist her in keeping case notes current.

Division Auditors observed detailed, typed notes and copies of emails in some of the files as well as handwritten notes on yellow colored legal pads. However, Auditors were unable to conclude that Stallings had complete records to support decisions made.

Stalling's Response to Director Initiated Complaint

Stallings was granted a good cause exception to extend the time to provide a written response to the Director Initiated Complaint. On September 18, 2018, Stallings provided a written response accordingly. She referenced the Division's Audit Report and said that she began serving as licensed public fiduciary at APCF on May 11, 2017, and that prior to that date she worked under the direction of former APCF fiduciary, Hall. Stallings said she has tried to respond to all findings even those that occurred under Hall's tenure.

Stallings acknowledged that the Audit's findings were lengthy and serious. In her response she wrote that there were a combination of issues including:

- 1) Inadequate and incorrect training from the prior Public Fiduciary;
- 2) A growing caseload;
- 3) Insufficient funding for an appropriate case management system;
- 4) Needed support
- 5) A lack of support from Stalling's legal advisors
- 6) Stalling's own deficient actions

Stallings said that her office began taking corrective action immediately upon receipt of the initial Audit and that the APCF has been forthcoming with additional funding for implementation of a case management system and additional staff. Stallings added, "As disheartening as it is to read the audit, my office has learned a great deal. This along with the commitment that county management has recently shown to the Public Fiduciary's Office will enable us to ensure future compliance. I assure that Apache County and I are completely dedicated to the wards we are responsible for and we desire nothing less than full compliance."

ANALYSIS OF ALLEGATIONS:

Allegation 1: Yvonne Stallings did not file estate budgets with the Court.

ACJA §§7-201(F)(1) and 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in §7-202(J).

ACJA §7-201(H)(6)(a), (h), and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;

ACJA §7-202(J)(1)(a) and (c)(2):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

c. The fiduciary shall:

(2) Provide or ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, consistent with the requirements specified in Arizona law, court rule, and the applicable sections of the Arizona Code of Judicial Administration;

ACJA §3-302 A. Definitions:

"Budget" means a projected list of all anticipated expenses and income.

ACJA §3-302 D(2)(b)(1)(a):

b. Exclusive Forms, Schedules, Worksheets, and Instructions.

(1) The following forms and the associated schedules, worksheets, and instructions are adopted as the exclusive method for presenting such matters in the superior court:

(a) Form 5: Conservatorship Estate Budget;

Arizona Rules of Probate Procedure Rule 30.1(A): Financial Order:

A. Following the appointment of a conservator for an adult, the conservator shall institute and follow a budget, as set forth in Rule 30.3, unless otherwise ordered by the court, and the court may enter one or more of the following orders:

Arizona Rules of Probate Procedure Rule 30.3. Conservatorship Estate Budget:

A. Unless otherwise ordered by the court, the conservator shall file a budget not later than the date the inventory is due and thereafter with each conservator's account, following consultation with any attorney or guardian ad litem for the protected person. The first budget shall cover the date of the conservator's initial appointment through and including the end date of the conservator's first account.

B. Unless otherwise ordered by the court, the budget shall be filed in the format set forth in the appropriate form prescribed in the Arizona code of judicial administration.

C. The conservator must provide a copy of the budget to all persons entitled to notice of the conservator's accounts pursuant to Arizona revised statutes Section 14-5419(C).

Per ARPP Rule 30.3, fiduciaries are required to establish and file initial estate budgets not later than the date that the inventory is due (that is within 90 days of appointment) and thereafter with each conservator's accounts at the end of the respective accounting years.

According to Division records, Hall served as the sole licensed fiduciary and designated principal of ACPF until on or about January 11, 2018 when the Fiduciary Board voted not to renew her licensure. On February 12, 2018, Stallings executed a Change of Designated Principal informing the Division of a change of principal from Hall to Stallings. In Section II of the said Form, Hall wrote that her resignation as Designated Principal for ACPF was effective May 11, 2017. Stallings has asserted she became the Public Fiduciary on May 11, 2017.

Stallings was not licensed as a fiduciary until May 11, 2017, although she was actively working in the public fiduciary's office as assistant to Hall and during this period Stallings

identified herself to Division staff (at the time of a different complaint) as a fiduciary “ad litem.” Although Stallings may not have been directly responsible for filing estate budgets with the court prior to her licensure, she was accountable for doing so after May 11, 2017 and those due in 2017.

As previously detailed in the Summary of Factual Findings of Investigation, of the probate cases reviewed, the following two cases required initial estate budgets to be filed in 2017:

- 1) GC2017-011(2017)
- 2) GC2017-003 (2017)

The following probate cases showed outstanding initial estate budgets due in 2015 or earlier and had outstanding annual budgets due:

- 1) GC2015-004
 - Initial estate budget due in 2015;
 - Annual estate budgets due in 2016 and 2017;
- 2) GC2015-007
 - Initial estate budget due in 2015;
 - Annual estate budgets due in 2016 and 2017;
- 3) GC2015-015
 - Initial estate budget due in 2015;
 - Annual estate budgets due in 2016 and 2017;
- 4) GC2015-021
 - Initial estate budget due in 2015;
 - Annual estate budgets due in 2016 and 2017;
- 5) MH-108
 - Initial estate budget due in 2015;
 - Annual estate budgets due in 2016 and 2017;
- 6) GC2003-017
 - Initial estate budget due in 2013;
 - Annual estate budgets due in 2014, 2015, 2016, and 2017;
- 7) GC2010-032

- Initial estate budget due in 2013;
 - Annual estate budgets due in 2014, 2015, 2016, and 2017;
- 8) GC2005-018

- Initial estate budget due in 2013;
- Annual estate budgets due in 2014, 2015, 2016, and 2017;

During the Audit, Stallings told Division staff that her office does not prepare and file estate budgets with the court, initially stating, “No, we’re not required to do that.” Stallings then clarified that there was never any instruction, direction, order or communication from the court discharging her from her obligation to file estate budgets.

Allegation 1 is substantiated.

Allegation 2: Yvonne Stallings did not obtain consumer credit reports, did not timely file inventories and/or did not file complete and accurate inventories, and/or did not file amended inventories with the Court.

ACJA §§ 7-201(F)(1) and 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

ACJA §7-201(H)(6)(a), (h), and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a) Failed to perform any duty to discharge any obligation in the course of the certificate holder’s responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;

ACJA §3-302 A. Definitions:

"Inventory" means a detailed, itemized list, report, or record of items and the value of such items in one's possession.

ACJA §7-202(J)(1)(a) and (c)(2):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

c. The fiduciary shall:

(2) Provide or ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, consistent with the requirements specified in Arizona law, court rule, and the applicable sections of the Arizona Code of Judicial Administration;

ACJA §7-202(J)(5)(k) and (6)(h):

Conservatorship.

The fiduciary shall prepare complete, accurate and understandable accounts and inventories.

ACJA §7-202(J)(6)(h):

Personal Representative.

A fiduciary acting as personal representative shall prepare complete, accurate and understandable court documents, including, but not limited to... inventories...

Arizona Rules of Probate Procedure, Rule 30(A)(1), (2) and (3):

Inventory.

1. Unless otherwise ordered by the court, the conservator shall file the inventory of the protected person's estate, as required by A.R.S. Section 14-5418(A), within 90 days after the conservator's letters of conservator, whether temporary or permanent, are first issued. The inventory shall list all property owned by the protected person as of the date the conservator's letters of conservator, whether temporary or permanent, were first issued, and shall provide the values of such assets as of the date of the conservator's first appointment.

2. *If the conservator is unable to file the inventory within 90 days after the conservator's letters of conservator... the conservator shall, before the deadline, file a motion that requests additional time to file the inventory....*

3. *If, after filing the inventory but before filing the conservator's first account, the conservator discovers an additional asset or discovers that the value of an asset on the inventory, whether appraised or not, is erroneous or misleading, the conservator shall file an amended inventory. If the conservator files an amended inventory because the conservator has discovered an additional asset and if the additional asset is not already subject to a court-ordered restriction, the conservator shall, with the amended inventory, file a petition requesting the court to either increase the amount of the conservator's bond or enter an order restricting the sale, conveyance, or encumbrance of the additional asset.*

Arizona Rules of Probate Procedure Rule 31. Decedents' Estates – Specific Procedures

A. Inventories

1. *Unless otherwise ordered by the court, a personal representative who is required to prepare an inventory shall, not later than 90 days after the personal representative's letters are issued, either:*

a. file the original of the inventory with the court and send a copy of the inventory to interested persons who request it; or

b. deliver or mail a copy of the inventory to each of the heirs of an intestate estate, or to each of the devisees if a will has been probated, and to any other interested persons who request it, and shall provide proof of the mailing by notice to the court.

2. *The inventory shall list all the property owned by the decedent at the time of the decedent's death as known by the personal representative on the date the inventory is prepared, and shall provide the values of such assets as of the date of the decedent's death.*

3. *If a personal representative who is required to prepare an inventory is unable to comply with the deadline set forth in this rule, the personal representative shall, before the deadline, file a motion that requests an extension of the deadline....*

A.R.S. §14-5418. Inventory and records

A. *Within ninety days after appointment, a conservator shall prepare and file with the court an inventory of the assets of the protected person on the date of the conservator's appointment, listing it with reasonable detail and indicating the fair market value of each asset as of the date of appointment. The conservator shall attach to the inventory a copy of the protected person's consumer credit report from*

a credit reporting agency that is dated within ninety days before the filing of the inventory.

A.R.S. §14-3706. Duty of personal representative: inventory and appraisalment

A. Within ninety days after his appointment, a personal representative, who is not a special administrator... shall prepare an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, its nature as community or separate property and the type and amount of any encumbrance that may exist with reference to any item.

B. The personal representative may file the original of the inventory with the court and send a copy of the inventory only to interested persons who request it; or, if he elects not to file the inventory with the court, he must deliver or mail a copy of the inventory to each of the heirs in an intestate estate....

As noted previously in the Summary of Factual Findings of Investigation, Stallings told Division staff that she does not obtain consumer credit reports. Likewise, Division staff did not find any record of consumer credit reports on file in the probate cases reviewed during the Audit.

Regarding inventories, Stallings told Division staff that she does not prepare inventories in conservatorship cases because protected persons do not have property and commonly have only “personal belongings.” She stated that, in conservatorship cases, as a matter of practice, she does not go into clients’ homes to inventory property and added that many clients do not own their homes, and that most are housed in long-term care facilities or low-income apartments. Stallings further stated that she generally bases what clients own in personal belongings and property by what her clients tell her or by what others in the community tell Stallings.

Division staff reviewed records that demonstrated, in some of the cases, the fiduciary’s office had handwritten notes listing various items of individuals’ personal property. Certain handwritten notes were also filed with the court at various stages of the fiduciary’s administration of a case. However, in those cases where handwritten inventories existed, a corresponding valuation of those items and personal belongings listed on the inventory was not included.

As detailed in the Summary of Factual Findings of Investigation, Division staff did not find any record of inventories filed by the fiduciary and her office in the following cause numbers:

- 1) GC2017-011
- 2) GC2016-008
- 3) GC2016-017
- 4) GC2013-028

- 5) GC2015-003
- 6) GC2015-021
- 7) GC2016-018

In cause number GC2017-011, referenced above, Stallings told Division staff that due to the “hazardous” conditions of the residence which required her to wear a “hazmat suit” to enter, she did not inventory the property.

In the following cases, an inventory listing various items was filed with the court at the time the Statement of Administration was filed by the fiduciary’s office, but no valuation was provided to those items listed:

- 1) PB2017-009
- 2) PB2017-045

The Division notes that in PB2017-045, the fiduciary indicated in the Statement to Administer Estate, filed with the court, that decedent’s property was valued at less than \$20,000.00. Stallings told Division staff that, shortly after having decedent’s mail forwarded to ACPF, she became aware that decedent had financial accounts which included investments in mutual funds and cash assets exceeding \$84,000.00. Despite her knowledge of the substantial increase in value of decedent’s assets from the initial estimate of \$20,000.00 to more than \$84,000.00, Stallings did not file an amended inventory and said that she has not “applied for letters for the estate,” as required by A.R.S. §14-5605(B).

A.R.S. §14-5605 addresses the issue of letters.

A.R.S. §14-5605. Letter testamentary or of administration not required: statement to be filed: powers and duties.

A. Whenever the gross assets of an estate do not exceed in value twenty thousand dollars the public fiduciary may act without the issuance of letters testamentary or of administration by filing with the superior court a statement of administration showing the name and domicile of the decedent, the date and place of death and the name, address and relationship of each known heir or devisee. The filing of this statement has the same effect as the issuance of formal letters testamentary or of administration.

B. In the event the gross assets of an estate in which the public fiduciary commences to act pursuant to a statement of administration later are found to exceed twenty thousand dollars the public fiduciary shall apply for letters for the estate.

Although not timely filed, in the following case, an inventory was filed with the court, but no evaluation of the listed property was included:

- 1) GC2015-015

In GC2003-017, Division Auditors reviewed a notarized document titled "Annual Account of Conservator," filed with the court on July 27, 2017. The said document stated that the fiduciary's office has prepared and filed with the court an inventory and appraisal of the protected person's estate and has sent a copy to those people entitled to receive a copy. When Division auditors asked to review a copy of the inventory, Hall stated that an inventory was not done because the foster mother of the protected person was unable to provide a list of the person's property.

The Division recognizes that, in some of the probate cases reviewed during the Audit, filing inventories or lack thereof and/or filing inventories without a valuation of the estate property was Hall's responsibility because she was the sole licensed fiduciary. However, after Stallings was licensed on or about May 11, 2017, it was incumbent upon her to ensure that those probate cases involving her office had proper inventories and that valuations were provided in those inventories.

Allegation 2 is substantiated.

Allegation 3: Yvonne Stallings did not timely file or did not file annual conservator accounts with the Court.

ACJA §§7-201(F)(1) and 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

ACJA §7-201(H)(6)(a), (h), and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer

care or failed to conform to the essential standards of acceptable and prevailing practice;

ACJA §7-202(J)(1)(a) and (c)(2):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

c. The fiduciary shall:

(2) Provide or ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, consistent with the requirements specified in Arizona law, court rule, and the applicable sections of the Arizona Code of Judicial Administration;

ACJA §3-302 A. Definitions:

“Account” means the detailed record of conservatorship’s financial activity.

Arizona Rules of Probate Procedure Rule 10(C)(2)(b).

C. Duties of Court Appointed Fiduciaries.

2. Duties Regarding Death of Ward or Protected Person. The court-appointed fiduciary shall do the following upon the death of the fiduciary’s ward or protected person:

b. Except as provided by in A.R.S. § 14-5419(F) or otherwise ordered by the court, a conservator shall file a final accounting of the protected person’s estate within 90 days of the date of the protected person’s death. The accounting shall reflect all activity between the ending date of the most recently approved accounting and the date of death of the protected person. The court may extend the date for filing the accounting or relieve the conservator from filing an annual or final accounting.

Arizona Rules of Probate Procedure Rule 30. Guardianships/Conservatorships -Specific Procedures:

D. Conservator’s Accounts

1. Unless otherwise ordered by the court, the conservator’s first account shall reflect all activity relating to the conservatorship estate from the date the conservator’s letters were first issued through and including the last day of the ninth

month after the date the conservator's permanent letters were issued and shall be filed with the court on or before the anniversary date of the issuance of the conservator's permanent letters. For each bank or securities account listed on the ending balance schedule of the account, the conservator shall attach to the account a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the account.

2. Unless otherwise ordered by the court, all subsequent account shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed account through and including the last date of the twelfth month thereafter, and shall be filed with the court on or before the anniversary date of the issuance of the conservator's permanent letters. For each bank or securities account listed on the ending balance schedule of the account, the conservator shall attach to the account a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the account.

4. Unless otherwise ordered by the court and except as provided in A.R.S. § 14-5419(F), a conservator shall file a final account for a deceased protected person within 90 days after the date of the protected person's death.

5. If the conservator is unable to file an account within the time set forth in this rule, the conservator shall, before the deadline, file a motion that requests additional time to file the account. The motion shall, at a minimum, state why additional time is required and how much additional time is required to file the account.

A.R.S. §14-5605. Letter testamentary or of administration not required: statement to be filed: powers and duties

E. No later than twelve months from the filing of the statement of administration, the public fiduciary shall file with the court an accounting and a proposed distribution and claim for fees if the estate is ready to be settled. If the estate is not ready to be settled the accounting shall contain a statement explaining the delay. The public fiduciary shall file subsequent accountings and explanations on an annual basis until the estate is settled.

As detailed in the Summary of Factual Findings of Investigation, during the Audit, Division staff noted that for some probate cases, the fiduciary's office did not file annual conservator accounts. In other probate cases, the annual conservator account was not filed timely and the accounting covered a two-year period rather than the required one-year accounting period. In two probate cases, final conservator accounts were not filed.

Division Auditors went through each of the following cases with Stallings and Hall to verify which of the estates had accountings outstanding and which cases the accountings had been filed:

Accountings due for 2017

- 1) GC2016-008
- 2) GC2016-031
- 3) GC2016-016

Accountings due for 2016 and 2017

- 1) GC2015-003
- 2) GC2015-021
- 3) GC2015-015
- 4) GC2015-007

Accountings due for 2015, 2016 and 2017

- 1) MH-108:
 - Accounting due for years 2015 - 2017
- 2) GC2004-028
 - Ward died April 1, 2016
 - A final account for 2016 was not filed as of March 2018

Final Conservator Accountings due

- 1) GC2015-015
- 2) GC2004-028 (Ward died on or about April 1, 2016)
- 3) GC2005-018 (Ward died on August 16, 2017)
- 4) PB2017-009

In PB2017-009, the fiduciary's records showed that the subject individual died on March 3, 2016. As detailed in the Summary of Factual Findings of Investigation, the fiduciary's office was appointed to administer the estate pursuant to an Authorization of Statement of Administration signed by the court on February 17, 2017. On February 2, 2017, Hall, on behalf of the ACPF, filed a Statement of Administration indicating, seeking authority to "take control of and administer the Estate..." because the individual died on March 3, 2016, apparently did not have relatives and had certain property and assets of less than \$20,000.00, according to the information filed by the fiduciary's office.

The Division notes that Hall, as designated principal of ACPF, filed a Statement of Administration on February 2, 2017 and that the court appointed the ACPF on February 17, 2017. Although this predates Stalling's fiduciary licensure (May 11, 2017), at the time of the Division's Audit in March 2018 Stallings, as the principal of ACPF, had not filed a final accounting with the court.

5) GC2016-018

- Fiduciary was appointed guardian and conservator on July 19, 2016
- Ward died on December 17, 2016
- No final account has been filed at the time of the Division's Audit in March 2018.

Stallings acknowledged to Division staff that she is behind in preparing and filing conservator accountings and said she prepares and files accountings when her office has time to complete the work. She said that she and Hall are currently working on some of those outstanding accountings.

The Division did not find records demonstrating that any motions were filed with the court for extensions of time to file accountings.

Allegation 3 is substantiated.

Allegation 4: Yvonne Stallings did not marshal and secure estate assets and/or comingled estate assets.

ACJA §§7-201(F)(1) and 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

ACJA §7-201(H)(6)(a), (h), and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer

care or failed to conform to the essential standards of acceptable and prevailing practice;

ACJA §7-202(J)(1)(a):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

ACJA §7-202(J)(2) and (5)(c) and (d):

Relationship with the Ward or Protected Person. The fiduciary shall exhibit the highest degree of trust, loyalty, and fidelity in relation to the ward, protected person, or estate.

5. Conservatorship. The fiduciary acting as conservator for the estate shall provide competent management of the property and income of the estate. The fiduciary shall exercise the highest level of fiduciary responsibility, intelligence, prudence, and diligence in the discharge of all duties. A fiduciary shall avoid any self-interest in the discharge of this duty.

c. On appointment, the fiduciary shall take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible. The fiduciary shall provide stewardship of the property for safekeeping and, at a minimum, record pictorially and establish and maintain accurate records of all real and personal property.

d. The fiduciary shall not co-mingle any property or assets of the protected person's estate with property or assets of other clients' estates the fiduciary may hold as conservator or in another capacity, nor co-mingle with the fiduciary's own property or assets.

ACJA §7-202(J)(6)(b), (c) and (d):

b. On appointment, the fiduciary shall take reasonable steps to marshal and secure the property and income of the decedent's estate as soon as possible. The fiduciary shall provide stewardship of the property for safekeeping and, at a minimum, record pictorially and establish and maintain accurate records of all real and personal property.

c. The fiduciary shall not co-mingle any property or assets of the decedent's estate with property or assets of other estates the fiduciary may hold as personal representative, or co-mingle with the fiduciary's own property or assets.

- d. A fiduciary shall exercise intelligence, prudence, and diligence in providing competent management of the property and income of the estate. A fiduciary acting as a personal representative shall observe the standards of care and duties applicable to trustees.*

A.R.S. §14-5602. Duties of public fiduciary; appointment; law enforcement agency; temporary protection of property; definition.

- B. On filing a statement of administration pursuant to section 14-5605 or on obtaining an order to preserve and protect property pursuant to section 14-5606, the public fiduciary shall take possession of all properties and perform the duties prescribed in sections 14-5605 and 14-5606.*

A.R.S. §14-5605. Letters testamentary or of administration not required; statement to be filed; powers and duties

- B. In the event the gross assets of an estate in which the public fiduciary commences to act pursuant to a statement of administration later are found to exceed twenty thousand dollars the public fiduciary shall apply for letters for the estate.*

On appointment by the court, fiduciaries are required to take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible. Fiduciaries are obligated to provide stewardship of the property for safekeeping and record pictorially and establish and maintain accurate records of all real and personal property.

Although more detail has been provided in the Summary of Factual Findings of Investigation, the following examples highlight the fiduciary's failure to marshal and secure assets and illustrate co-mingling of clients' assets:

1) PB2017-0045

On or about July 6, 2017 the fiduciary's office filed a Statement of Administration under A.R.S. § 14-5605, for estates under \$20,000.00. On or about July 12, 2017 the court authorized ACPF to administer the estate accordingly. At the time of the filing of Statement of Administration, the fiduciary's office included, with the filing, an inventory listing approximately 600 compact discs, three vehicles, a trailer house described as unlivable, and a lot in River Meadow Ranch. The inventory also listed three guns and indicated that the guns were taken by the Sheriff's Office and stored there.

Stallings told Division staff that while at decedent's residence, she searched for documents and found some bank statements. She timely forwarded decedent's U.S. mail to ACPF and soon afterward started receiving additional financial statements. Stallings said she learned that the decedent had financial accounts with holdings in mutual funds and cash, exceeding \$84,000.00. Despite her knowledge of the significant increase in the value of the estate,

Stallings did not seek letters for the estate as required by A.R.S. § 14-5605(B) nor did she amend the inventory to include the additional assets.

Records showed that on July 24, 2017, a representative from Ameriprise, the financial institution holding decedent's investments and some cash, requested from Stallings estate tax number and copies of the death certificate and court order showing lawful authority to administer the estate before Stallings would be given access and control of decedent's accounts and money.

At the time of the Division's Audit in March 2018, approximately eight (8) months after the court authorized ACPF to administer the estate (July 12, 2017), Stallings disclosed that she had not acted to marshal and secure the accounts in accordance with Ameriprise's request for the referenced documents. Stallings told Division staff that she had copies of the death certificate and the court's order on the file but said she did not have time to provide those documents to Ameriprise. Stallings stated that she intended to do the same regarding the other bank accounts and institutions. She added that she had spoken with the representative from Ameriprise and said she was told that no one had access to those accounts.

Division staff reviewed available statements from Ameriprise, Chase Bank, Wells Fargo Bank, Washington Federal. There was no indication that moneys were withdrawn by any party after decedent's passing.

Moreover, at the time of the Audit, Stallings stated her general intention to "take title" of decedent's vehicle and motorcycles and to contact certain credit card companies regarding decedent's debts, but she had not done so.

Stallings also indicated that she would eventually relinquish decedent's guns to the Sheriff's Office and understood that the Sheriff's Office would either keep or sell the guns. If sold, the proceeds would be deposited into the Sheriff's Office general funds. Therefore, Stallings' decision to proceed would mean that she would deny the estate to benefit from the sale of estate property.

2) GC2015-015

The fiduciary's office was appointed as guardian and conservator on September 29, 2015. The protected person died on September 26, 2017, and on October 10, 2017, the fiduciary's office filed a Notice of Death & Authorization to Administer Remainder of Estate (A.R.S. § 14-5605).

An initial inventory, filed with the court on September 28, 2015, identified five acres of land at Northfork Ranches and a Modular Home which ACPF indicated on the inventory was to be condemned due to filth. Numerous other items were on the inventory list including vehicles, motor homes, travel trailers, utility trailers, and storage area in Linden Ministorage etc. On the inventory was a statement that "Each utility trailer is packed of

various items to be inventoried.” Division auditors noted at least three trailers on the inventory list which were described as utility or storage trailers.

Records showed communication between Stallings and various creditors regarding payment of bills. Stallings told Division staff that the protected person/decedent was a “hoarder” and that Stallings has been trying her best to see decedent’s property through the county surplus auction, contingent upon good weather and availability of time. Stallings said that all property belonging to this estate is in various stages of being sold via the county surplus auction.

Division Auditors noted various auction sales and receipts from sales of property beginning in January 2016 on file. Much of decedent’s property remains in the fiduciary’s storage units and needs to be sold. Stallings does not have a complete list of property items that have been sold or of items that need to be sold. She creates a list of the property and takes pictures of the property when she places the items on the surplus auction website. Stallings stated that decedent has \$25,000.00 of debt and said she has contacted creditors and that some of the creditors wrote off the bill but said she still needs to sell decedent’s property to pay off remaining debt.

By not having a complete list of property that was sold or not sold, Stallings failed to record, establish and maintain accurate records of property, in violation of ACJA §7-702J(6)(b).

3) GC2016-007

Stallings said that the protected person has a shed but that the property contained in the shed was not of much value other to the protected person. Stallings acknowledged that she did not prepare and file an inventory.

Records showed that in notes attached to the Court Appointed Investigator Report, the court investigator indicated that when the protected person was interviewed by the court investigator on April 12, 2016, the court investigator documented “She has a handgun, shotgun and a rifle.” Auditors did not see any of the fiduciary’s records regarding the guns referenced in the court investigator’s report or of the location of these guns.

Stallings told Division staff that whenever the fiduciary’s office finds guns, those guns are turned over to the Sheriff’s Department and are stored in the evidence room. She said that the fiduciary’s office eventually relinquishes the guns to the Sheriff’s Office and the Sheriff’s Office will either keep the guns or sell them. If guns are sold, Stallings said that the Sheriff’s Office will deposit the proceeds into the Sheriff’s department’s general fund. Therefore, the estate would not benefit from the sale of estate property.

However, Stallings was unable to provide a clear understanding of whether she knew that the protected person owned and possessed the guns or the location of any such guns.

4) GC2017-011

On or about May 17, 2017, APS contacted the fiduciary's office regarding the deplorable living conditions of the protected person's home. ACPF filed for temporary guardianship and conservatorship on May 25, 2017 and was ultimately appointed permanent guardian and conservator on July 6, 2017.

At the time of the Division's Audit in March 2018, Stallings told Division staff that the protected person has a home that is scheduled for a trustee sale in May 2018. She said the property had value prior to the fiduciary's appointment but that due to the hazardous living conditions of the home, Stalling would have to wear a hazmat suit to enter the home and, therefore, had not entered the residence to complete the inventory.

Stallings indicated that the real property carried a \$140,000 mortgage although Division staff did not see any mortgage documents in the fiduciary's files. Audit staff confirmed with the County Assessor's office that a notice of trustee sale was recorded on January 24, 2018. The County Assessor's Office indicated that the protected person purchased the property in 2008 for \$118,800 and that the current Full Cash Value of the home, as assessed by the County Assessor was \$73,041. Division staff noted that the website Auction.com lists the property as a foreclosure with an estimate debt of \$103,393.

Division Auditors were unable to determine, from the fiduciary's files, any equity the protected person may have had in the property and whether ACPF tried to determine the value.

Division staff noted that the court did not issue Letters of Appointment and, therefore, none were recorded the County Recorder, as required.

In addition, Stallings told Division staff about an incident whereby money belonging to the protected person was stolen. Stallings said she obtained \$100.00 cash as birthday money for the protected person and that while the money was in the fiduciary's office, the \$100.00 went "missing." Stallings opined that the money was taken/stolen by a former employee of the fiduciary's office. Stallings said she called the Sheriff's Office to file a report on the incident but said the Sheriff's Office would not take the report apparently because Stallings did not have proof that money was allegedly taken by the employee. When asked if the protected person's missing \$100.00 was replaced, Stallings said the money was not replaced by the fiduciary's office or by anyone else.

With respect to storage of estate items and personal belongings, Stallings and her office utilize three storage sheds and a railcar trailer Stallings referred to as the "convex." Division staff looked in two of the three sheds and in the convex storage. The two storage sheds primarily contained items and belongings for those estate items that had been listed on the county surplus auction and perhaps did not sell or those items that Stallings was preparing for future listing via the surplus auction.

One of the sheds primarily contained one estate's belongings and the second shed contained items from the same estate but also had three motorcycles belonging to another estate. While many items including boxes and other items some had identification (last name of

protected person or decedent) and Division staff did not review every box or item to ensure clear identification. The three small motorcycles did not have any identifying information or indication as to whom those belonged although Stallings could readily say to whose estate those belonged. However, in Stallings' absence, another person would be pressed to determine ownership.

The convex contained various items belong to three estates. Items stored were found in boxes, or loosely stored (mattress, chairs, fans, stools, radiator heater, toaster ovens, coolers, gardening tools, etc.). Other items were in crates or in black garbage bags. Some of the loose items were marked with a surname as were some of the boxes but not all the items had identification or markings on them.

Division staff asked Stallings about some items which may not have had identification and she readily named the corresponding estate or person but However, Hall was not able to identify some of the items indicating that she had forgotten which item belonged to whom.

Therefore, because of the co-mingling of estate property and improper marking of individual items, in Stallings' absence and without her direct assistance, it may be difficult or impossible for another individual to properly which property item belonged to which person or estate.

The fiduciary's office has a written policy, No. 4-01 Estate Inventory – Section No. 4: Asset/Income Management Guidelines, which establishes certain protocols that ACPF will follow to “ensure the client's assets and income is properly marshaled, protected, administered, and accounted for from the date of court appointment and through the administration the case,” However Stallings is not adhering to the policy protocols and is not in compliance with the ACJA and applicable rules.

Allegation 4 is substantiated.

Allegation 5: Yvonne Stallings did not file Annual Report of Guardian with the Court and/or did not timely file Annual Report of Guardian and/or filed incomplete Annual Report of Guardian.

ACJA §7-201(F)(1) and 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

ACJA §7-201(H)(6)(a), (h), and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;

ACJA §7-202(J)(1)(a) and (c)(2):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

c. The fiduciary shall:

(2) Provide or ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, consistent with the requirements specified in Arizona law, court rule, and the applicable sections of the Arizona Code of Judicial Administration;

A.R.S. §14-5312. General powers and duties of guardian.

(A)(5):

A guardian is required to report the condition of the ward and of the estate that has been subject to the guardian's possession or control, as required by the court or court rule.

A.R.S. § 14-5315. Guardian reports: contents

(A) A guardian shall submit a written report to the court annually, pursuant to rules adopted by the supreme court, on resignation or substitution as guardian and on termination of the ward's disability.

Arizona Rules of Probate Procedure Rule 30(C)(1), (2), and (3):

Guardianships/Conservatorship-Specific Procedures

1. Unless otherwise ordered by the court, the guardian's first annual report shall cover the time from the date the guardian's letters were first issued through and including the last day of the ninth month after the date the guardian's permanent letters were issued. The report shall be filed with the court on or before the anniversary date of the issuance of the guardian's permanent letters.

2. Unless otherwise ordered by the court, all subsequent annual reports of guardian shall cover the time from the ending date of the most recent previously filed annual report of guardian through and including the last date of the twelfth month thereafter. The report shall be filed with the court on or before the anniversary date of the issuance of the guardian's permanent letters.

3. If the guardian is unable to file an annual report of guardian within the time set forth in this rule, the guardian shall, before the deadline, file a motion that requests additional time to file the report. The motion shall state why additional time is required and how much additional time is required to file the report

Many of the guardianship files reviewed did not have copies of the Annual Report of Guardian. Stallings was asked about the missing reports and she said that her office was behind in filing the guardian reports with the court. She said that she and Hall are working on getting "caught up."

Division staff found delinquent annual guardian reports as follows:

- 1) GC2016-008 (due for 2017)
- 2) GC2016-031 (due for 2017)
- 3) GC2016-017 (due for 2017)
- 4) GC2016-007 (due for 2017, 2016)
- 5) GC2015-003 (due for 2017, 2016)
- 6) GC2015-004 (due for 2017, 2016)
- 7) GC2015-007 (due for 2017, 2016)
- 8) GC2015-021 (due for 2017, 2016)
- 9) GC2015-015 (due for 2017, 2016 – ward died September 27, 2017)
- 10) GC2013-028 (due for 2016, 2015 – ward died June 22, 2016)
- 11) MH-108 (due for 2017, 2016, 2015)

In GC2014-004, the fiduciary's office was appointed as Co-Guardian of the ward. Stallings told Division staff that she has not prepared or filed an Annual Report of Guardian in this matter.

In GC2010-032, the Annual Report of Guardian was filed on September 14, 2017 but the report was incomplete because the section that identifies the number of times the guardian

visited the ward in the last 12 (twelve) months and the date when the guardian last saw the ward were left blank.

Allegation 5 is substantiated.

Allegation 6: Yvonne Stallings did not file a Probate Information Form and did not file and/or timely file notices of death and/or did not file or timely file a change of address with the Court.

ACJA §§7-201(F)(1) and 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

ACJA §7-201(H)(6)(a), (h), and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;

ACJA §7-202(J)(1)(a) and (c)(1) and (2):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

c. The fiduciary shall:

(1) Inform the court, pursuant to the Arizona Rules of Probate Procedure, of a permanent change in the location, or upon the death, of a ward or protected person.

(2) Provide or ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, consistent with the requirements specified in Arizona law, court rule, and the applicable sections of the Arizona Code of Judicial Administration;

Arizona Rules of Probate Procedure Rule 6. Probate Information Form:

A. Except as provided in section B of this rule, when a party files a petition or application requesting the appointment of a guardian, conservator, or personal representative, the party shall also file an information form that contains the following information:

1. The nominated fiduciary's

- a. mailing address;*
- b. physical address;*
- c. home telephone number;*
- d. work telephone number;*
- e. date of birth;*
- f. social security number;*
- g. race, height, weight, eye color, hair color; and*
- h. relationship to the person alleged to be incapacitated, the person in need of protection, or the decedent.*

2. The following information for the person alleged to be incapacitated or in need of protection:

- a. mailing address;*
- b. physical address;*
- c. home telephone number;*
- d. date of birth; and*
- e. social security number.*

Arizona Rules of Probate Procedure Rule 10. Duties Owed by Counsel, Fiduciaries, Unrepresented Parties, and Investigators:

Rule 10(C)(1)(c) and (2)(a):

1. A court-appointed fiduciary shall

c. file an updated probate information form that contains the information required by Rule 6 of these rules within ten days after any changes in such information, except that if the ward's physical address changes, the ward's guardian shall file the updated probate information form within three days of learning of the change in address;

2. Duties Regarding Death of Ward or Protected Person. The court-appointed fiduciary shall do the following upon the death of the fiduciary's ward or protected person:

a. A guardian or conservator appointed pursuant to A.R.S. Title 14 shall notify the court in writing of the ward or protected person's death within ten days of learning that the ward or protected person has died.

Division auditors reviewed available court records and the files maintained by the fiduciary's office.

Probate Information Form

Regarding Probate Information Forms, Division auditors found no record that Stallings or the office filed a Probate Information form in the probate cases reviewed.

Notice of Death

With respect to filing Notice of Death of Ward, specific to Stallings's scope of responsibility, Division auditors found two cases where Stallings did not or did not timely file a Notice of Death of ward with the court:

1) GC2016-018

The ward passed away on or about December 17, 2017. At the time of the Audit, March 5, 2018, Stallings had not yet filed a Notice of Death with the court. She told Division staff that she thought she filed a Notice of Death, but she was unable to produce a copy of such notice. She stated that she would file a Notice of Death of ward with the court as soon as possible.

2) GC2013-028

The ward died on or about June 22, 2016. The Notice of Death was filed with the court on or about July 10, 2017. This filing date was approximately two months after Stallings was licensed as a fiduciary and serving as designated principal of ACPF.

Stallings is required to notify the court within 10 (ten) upon the death of a ward or protected person, pursuant to ACJA §7-202(J)(1)(c)(1).

1. Duty to the Court.

c. The fiduciary shall:

(1) Inform the court, pursuant to the Arizona Rules of Probate Procedure, of a permanent change in the location, or upon the death, of a ward or protected person.

Pursuant to Arizona Rules of Probate Procedure, Rule 10(c)(2)(a), Stallings is required to notify the court, in writing, within ten (10) days of learning that a ward or protected person had died.

2. Duties Regarding Death of Ward or Protected Person. The court-appointed fiduciary shall do the following upon the death of the fiduciary's ward or protected person:

a. A guardian or conservator appointed pursuant to A.R.S. Title 14 shall notify the court in writing of the ward or protected person's death within ten days of learning that the ward or protected person has died.

Notice of Change of Address

Whenever a ward is moved to another address and new location, fiduciaries are required to file a Notice of Change of Address with the court within three (3) days of learning of the change in address. Within the two-year review scope of the Audit, in probate cases reviewed, the Division did not find record of any such notice to the court.

Stallings told Division Auditors that a one ward (GC2016-0017) had been moved two months ago (January 2018) from the St. John's, AZ area to a hospice facility in Scottsdale, AZ. A Notice of Change of Address/Location for the ward's move was not found in the court file. When asked if there were other wards living outside of St. John's, Stallings said that ward (GC2017-011) was living in a facility in Tucson, AZ; ward (GC2016-008) was living in Show Low, AZ; and ward (GC2015-004) lives in the Arizona State Hospital.

There was no record of the above-referenced changes of location and address in the court.

ARPP, Rule 6, Probate Information Form; updating the Probate Information Form, pursuant to Rule 10; and the Notice of Change of Address, required by § 7-202(J)(1)(c)(1) serve definitive purposes which includes accountability to the court and preservation of transparency of process.

The Notice of Change of Address is self-explanatory and should be timely filed to ensure that the court has the most recent information on where wards and protected persons, under the court's oversight, are physically residing after any change in location. By not informing the court of changes of address, Stallings violated her duty to the court, as required by ACJA §7-202(J)(1)(a) and (c)(1):

1. Duty to the Court.

a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.

c. The fiduciary shall:

(1) Inform the court, pursuant to the Arizona Rules of Probate Procedure, of a permanent change in the location, or upon the death, of a ward or protected person.

Stallings violated ARPP, Rule 10(c)(1)(c):

Rule 10(C)(1)(c)

1. A court-appointed fiduciary shall

c. file an updated probate information form that contains the information required by Rule 6 of these rules within ten days after any changes in such information, except that if the ward's physical address changes, the ward's guardian shall file the updated probate information form within three days of learning of the change in address; and

Allegation 6 is substantiated.

Allegation 7: Yvonne Stallings did not maintain complete client records.

ACJA §§7-201(F)(1) and 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).

ACJA §7-201(H)(6)(a), (h), and (k)(6), (7) and (8):

6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

a) Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;

h. Exhibited incompetence in the performance of duties;

k. Engaged in unprofessional conduct, including:

(6) Failed to practice competently by use of unsafe or unacceptable practices;

(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged

in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;

ACJA §7-202(J)(3)(e):

3. Decision Making. The fiduciary shall exercise extreme care and diligence when making decisions on behalf of a ward or protected person. The fiduciary shall make all decisions in a manner that promotes the civil rights and liberties of the ward or protected person and maximizes independence and self-reliance.

e. The fiduciary shall recognize their decisions are open to the scrutiny of other interested parties and, consequently, to criticism and challenge. Subject to orders of the court, the fiduciary alone is ultimately responsible for decisions made on behalf of the ward, protected person, or estate. The fiduciary shall maintain accurate and complete records to support the decisions made in the administration of a case, in compliance with court rules and the applicable sections of the Arizona Code of Judicial Administration.

Fiduciaries are required to document and maintain complete and accurate records that support decisions that are made on behalf of wards, protected persons and estates. Division Auditors reviewed the fiduciary's files and found that multiple files did not contain a complete record of notes to support decisions made by the fiduciary. Stallings provided internal written procedures for documenting and maintaining detailed notes regarding decisions made but multiple files contained notes for only sporadic periods of time. Case notes were not up to date and some of the files did not have case notes.

Stallings told Division staff that she takes case notes on a pad of paper and when time allows she types her notes into a Word document and prints her notes for respective files. She also said that, when time permits, she prints copies of email correspondence regarding decisions made on behalf of her wards and estates. Stallings added that if any of the files were deficient of case notes it was because she either did not have the time to type up the notes or that she had typed the notes but did not print them out to insert in the files. Or that she did not have time to print the emails for the file. Stallings stated that her office just obtained voice software called "Dragon" which she is hoping will assist her and her office to keep current on her case notes.

Division staff noted that some of the fiduciary's files contained detailed, handwritten or typed case notes and emails but Division Auditors were unable to conclude that Stallings maintained completed records to support fiduciary decisions made. Auditors were concerned because Stallings is functioning as the sole licensed fiduciary and is solely responsible for any decision made on behalf of incapacitated and vulnerable people.

Because Stallings' decisions are open to scrutiny by other interested parties and, consequently, to criticism and challenge, it is imperative that Stallings maintains accurate and complete file records that document her decision-making process and that all decisions were made in the best interests of wards, protected persons, and estates.

Allegation 7 is substantiated.

SUBMITTED BY:


PASQUALE FONTANA, Investigator
Certification and Licensing Division

Date

3/27/19

REVIEWED BY:


Certification and Licensing Division

Date

3/28/19

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 18-0037, the Probable Cause Evaluator:

- ☐ requests division staff to investigate further.
- ☐ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

- ☒ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

1, 2, 3, 4, 5, 6, and 7.



Mike Baumstark
Probable Cause Evaluator

Date

4/3/19

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

***CERTIFICATE
HOLDER
INFORMATION***

**Certificate Holder:
Certification Number:**

Yvonne Stallings
20828

RECOMMENDATION:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Yvonne Stallings has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 18-0037.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6) for act(s) of misconduct as described in the Investigation Summary and Allegation Analysis Report in complaint number 18-0037.

Mitigating Factors:

- Absence of dishonest motive
- Full and free disclosure to Division staff

Aggravating Factors:

- Multiple offenses
- Refusal to recognize wrongful nature of her conduct
- Vulnerability of the wards

It is recommended that the Board revoke the license of Yvonne Stallings.

SUBMITTED BY:



Mark Wilson, Division Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 18-0037 and Yvonne Stallings, certificate number 20829, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- ☐ requests division staff to investigate further.
- ☐ refers the complaint to another entity with jurisdiction.

Referral to: _____
- ☐ dismisses the complaint, and:
 - ☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
 - ☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- ☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- ☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- ☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- ☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

☒ adopts the recommendations of the Division Director.

☐ does not adopt the recommendations of the Division Director and orders:



Deborah Primock, Chair
Fiduciary Board

5/9/19
Date

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